

Federal Emergency Management Agency, DHS

§ 11.14

under 28 U.S.C. 2675(a) shall not accrue until six months after the filing of an amendment.

[45 FR 15930, Mar. 12, 1980, as amended at 48 FR 6711, Feb. 15, 1983; 49 FR 33879, Aug. 27, 1984]

§ 11.12 Administrative claim; who may file.

(a) A claim for injury to or loss of property may be presented by the owner of the property interest which is the subject of the claim, his or her authorized agent, or legal representative.

(b) A claim for personal injury may be presented by the injured person or, his or her authorized agent or legal representative.

(c) A claim based on death may be presented by the executor or administrator of the decedent's estate or by any other person legally entitled to assert such a claim under applicable State law.

(d) A claim for loss wholly compensated by an insurer with the rights of a subrogee may be presented by the insurer or the insured individually, as their respective interests appear, or jointly. When an insurer presents a claim asserting the rights of a subrogee, he or she shall present with the claim appropriate evidence that he or she has the rights of a subrogee.

(e) A claim presented by an agent or legal representative shall be presented in the name of the claimant, be signed by the agent or legal representative, show the title of legal capacity of the person signing, and be accompanied by evidence of his or her authority to present a claim on behalf of the claimant as agent, executor, administrator, parent, guardian, or other representative.

§ 11.13 Investigations.

FEMA may investigate, or may request any other Federal agency to investigate, a claim filed under this part.

§ 11.14 Administrative claim; evidence and information to be submitted.

(a) *Death.* In support of a claim based on death the claimant may be required to submit the following evidence or information:

(1) An authenticated death certificate or other competent evidence show-

ing cause of death, date of death, and age of the decedent.

(2) Decedent's employment or occupation at time of death, including his or her monthly or yearly salary or earnings (if any), and the duration of his or her last employment or occupation.

(3) Full names, addresses, birth dates, kinship, and marital status of the decedent's survivors, including identification of those survivors who were dependent for support on the decedent at the time of his or her death.

(4) Degree of support afforded by the decedent to each survivor dependent on him or her for support at the time of death.

(5) Decedent's general physical and mental condition before death.

(6) Itemized bills or medical and burial expenses incurred by reason of the incident causing death, or itemized receipts of payment for such expenses.

(7) If damages for pain and suffering before death are claimed, a physician's detailed statement specifying the injuries suffered, duration of pain and suffering, any drugs administered for pain, and the decedent's physical condition in the interval between injury and death.

(8) Any other evidence or information which may have a bearing on either the responsibility of the United States for the death or the amount of damages claimed.

(b) *Personal injury.* In support of a claim for personal injury, including pain and suffering, the claimant may be required to submit the following evidence or information:

(1) A written report by his or her attending physician or dentist setting forth the nature and extent of the injury, nature and extent of treatment, any degree of temporary or permanent disability, the prognosis, period of hospitalization, and any diminished earning capacity. In addition, the claimant may be required to submit to a physical or mental examination by a physician employed by FEMA or another Federal agency. FEMA shall make available to the claimant a copy of the report of the examining physician on written request by the claimant, if he or she has, on request, furnished the report referred to in the first sentence of

§ 11.15

this subparagraph and has made or agrees to make available to FEMA any other physician's reports previously or thereafter made of the physical or mental condition which is the subject matter of the claim.

(2) Itemized bills for medical, dental, and hospital expenses incurred, or itemized receipts of payment of such expenses.

(3) If the prognosis reveals the necessity for future treatment, a statement of expected expenses for such treatment.

(4) If a claim is made for loss of time from employment, a written statement from the employer showing actual time lost from employment, whether he or she is a full- or part-time employee, and wages or salary actually lost.

(5) If a claim is made for loss of income and the claimant is self-employed, documentary evidence showing the amount of earnings actually lost.

(6) Any other evidence or information which may have a bearing on either the responsibility of the United States for the personal injury or the damages claimed.

(c) *Property damage.* In support of a claim for injury to or loss of property, real or personal, the claimant may be required to submit the following evidence or information:

(1) Proof of ownership of the property interest which is the subject of the claim.

(2) A detailed statement of the amount claimed with respect to each item of property.

(3) An itemized receipt of payment for necessary repairs or itemized written estimates of the cost of such repairs.

(4) A statement listing date of purchase, purchase price, and salvage value, where repair is not economical.

(5) Any other evidence or information which may have a bearing on either the responsibility of the United States for the injury to or loss of property or the damages claimed.

§ 11.15 Authority to adjust, determine, compromise and settle.

(a) The General Counsel of FEMA, or a designee of the General Counsel, is delegated authority to consider, ascertain, adjust, determine, compromise,

44 CFR Ch. I (10-1-03 Edition)

and settle claims under the provisions of section 2672 of title 28, United States Code, and this part.

(b) Notwithstanding the delegation of authority in paragraph (a) of this section, a Regional Director is delegated authority to be exercised in his or her discretion, to consider, ascertain, adjust, determine, compromise, and settle under the provisions of section 2672 of title 28, United States Code, and this part, any claim for \$200 or less which is based on alleged negligence or wrongful act or omission of an employee of the appropriate Region, except when:

(1) There are personal injuries to either Government personnel or individuals not employed by the Government; or

(2) All damage to Government property or to property being used by FEMA, or both, is more than \$200, or all damage to non-Government property being used by individuals not employed by the Government is more than \$200.

[45 FR 15930, Mar. 12, 1980, as amended at 48 FR 6711, Feb. 15, 1983]

§ 11.16 Limitations on authority.

(a) An award, compromise, or settlement of a claim under this part in excess of \$25,000 may be effected only with the advance written approval of the Attorney General or his or her designee. For the purpose of this paragraph, a principal claim and any derivative or subrogated claim shall be treated as a single claim.

(b) An administrative claim may be adjusted, determined, compromised, or settled under this part only after consultation with the Department of Justice, when, in the opinion of the General Counsel of FEMA or his or her designee:

(1) A new precedent or a new point of law is involved; or

(2) A question of policy is or may be involved; or

(3) The United States is or may be entitled to indemnity or contribution from a third party and FEMA is unable to adjust the third party claim; or

(4) The compromise of a particular claim, as a practical matter, will or may control the disposition of a related claim in which the amount to be paid may exceed \$25,000.